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California Regional Water Quality Control Board

Los Angeles Region

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Los Angeles Regional Water Quality Control Board Minutes of August 29, 2002 Regular Board Meeting held at Metropolitan Water District of Southern California, 700 North Alameda Street, Los Angeles, California

INTRODUCTION

The meeting was called to order by Chairperson Diamond at 9:15 am.

Board Members Present

Susan Cloke, Francine Diamond, R. Keith McDonald, Robert Miller, Bradley Mindlin, H. David Nahai, and Christopher Pak

Board Members Absent

Timothy Shaheen

Staff Present

Dennis Dickerson, Deborah Smith, David Bacharowski, Ronji Harris, Laura Gallardo, Robert Sams, Michael Laufer, Jack Price, Steve Cain, Jenny Newman, Jonathon Bishop, Blythe Ponek-Bacharowski, Veronica Cuevas-Apulche, L.B. Nye, Namiraj Jain, Hugh Marley, Lala Kabadain, Michael Lyons, Elijah Hill, Art Heath, Rebecca Chou, Xavier Swamikannu, Enrique Casas, Yen Wang, Rod Nelson, Yue Rong, Hubert Kang, Kwang-il Lee, Orlando Gonzalez

Others Present

Susan Pintar, Interested parties David Shamsian and
Roya Goltche
Steve Shestag, Boeing
Jacqy Gamble, Las Virgenes Municipal Water District
Vicki Conway, LA County Sanitation District (LACSD)
Margaret Nellor, LACSD
Sharon Green, LACSD
Martha Rincon, LACSD
Jim Colbaugh, Las Virgenes Municipal Water District
Randall Orton, Las Virgenes Municipal Water District

Ed Trosper, Interested parties David
Shamsian and Roya Goltche
James Stahl, LACSD
Nicole Granquist, LACSD
Ray Tremblang, LACSD
Shelley Luce, Heal the Bay
Jim Weeks
Benjamin Brin
Andy Hovey, Ventura Regional
Sanitation District
Steven Kinney, Oxnard Economic

California Environmental Protection Agency

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Our mission is to preserve and enhance the quality of California's water resources for the benefit of present and future generations.

George Muse, Metropolitan Water District of
Southern California
Matt Bequette, City of Los Angeles
Curtis Cannon, City of Oxnard

Robert William Robinson, Upper San Gabriel Valley
Municipal Water District
Arthur Fine, Halaco
Dave Gable, Halaco

Development Corporation
Robyn Stuber, USEPA Region 9

Tracy Duffey, CA Coastal Commission
Kimberly Lymon, LA County
Department of Public Works
John Haack, Halaco

Royall Brown
Richard Parsons, City of Oxnard

Pledge of Allegiance

1. Roll Call
A roll call was taken.
2. Order of Agenda.

The Executive Officer asked the Board to make the following changes to the agenda:

- *Add Item 4.1 to recognize several staff members*
- *Item 7.1 to be heard at a future meeting*
- *Item 8.5 to be heard at the next meeting*
- *Item 10 to be heard immediately after the consent calendar, followed by Item 14*

There was a motion to approve the changes to the agenda.

MOTION: By Board Member Cloke, seconded by Board Member Mindlin, and approved on a voice vote. No votes in opposition.

3. Approval of Minutes

The Board approved the minutes from the June 27, 2002 and July 11, 2002 meetings with some corrections to the July 11 minutes.

4. Board Member Communications and Ex Parte Disclosure

Board member Cloke stated that she and Chairperson Diamond went on a tour of Compton Creek with representatives from Supervisor Burke's office, Compton City Council, Los Angeles County, and the Army Corps of Engineers. She also stated that she and Chairperson Diamond had lunch with Valerie Shaw and Adriana Rubalcava from the City of Los Angeles Board of Public Works.



4.1 Staff Recognition

Supervisory Awards were presented to Blythe Ponek-Bacharowski and Rebecca Chou, and Retirement Resolutions were presented to Elijah Hill and Hubert Kang.

5 Public Forum

Susan Pintar and Ed Trosper, representing interested parties David Shamsian and Roya Goltche, asked the Board to reopen the former ARCO site at 6739 West Olympic Blvd. due to elevated levels of Benzene that showed up after the site was closed and subsequently sold to their client.

Jim Colbaugh, General Manager of Las Virgenes Municipal Water District, spoke on Item 8.1 and urged the Board to issue the permit for Las Virgenes Municipal Water District's proposed constructed wetlands. He stated that it was a benefit to ratepayers and the environment and would serve as a model for constructed wetlands.

6. Uncontested Items

Board Member Cloke asked to take Item 15 off the consent agenda and had a short question about 8.8. There was a motion to approve the following uncontested items: 7.2 to 7.5, 8.2 to 8.4, 8.6 to 8.8, 11, and 13.

MOTION: By Board Member Nahai, seconded by Board Member Miller, and approved on a voice vote. No votes in opposition.

10.1& Consideration of NPDES Permit Renewal and Time Schedule Orders for County
10.2 Sanitation Districts of Los Angeles County – Whittier Narrows Water Reclamation Plant

Staff Presentation

Blythe Ponek-Bacharowski, Acting Chief, Watershed Regulatory Section, gave the staff presentation. She described the location of the facility and its relation to the other plants in the Joint Outfall system, its capacity, and the beneficial uses of the receiving waters, including groundwater BUs. She went over the major changes to the permit, including the SIP based Reasonable Potential Analysis (RPA), CTR based limits, nitrate+nitrite limits, chronic toxicity limits, ammonia limits, and additions to the monitoring and reporting requirements. She then discussed the inter-agency agreement that LACSD entered due to a recent fish kill near one of the outfalls when Whittier Narrows cut off the flow there because LA County Department of Public Works needed to do work. She then reviewed the major issues still under disagreement with LACSD and Heal the Bay.

Ms. Ponek-Bacharowski then gave the staff presentation on the TSO. She explained that the TSO was in order to allow LACSD time to comply with ammonia requirements in the Basin Plan because interim limits and compliance schedules are not allowed in



NPDES permits. She stated that LACSD needed time to conduct site-specific objectives (SSO) and other studies. She reviewed the interim limits and TSO provisions and went over comments by LACSD and Heal the Bay.

Discharger Presentation

Jim Stahl, Chief Engineer and General Manager, LA County Sanitation District, gave the discharger presentation. He went over the remaining issues from the Los Coyotes and Long Beach permits adopted at the last Board meeting and new issues particular to the Whittier Narrows plant. He discussed the history of the plant and the Rio Hondo spreading grounds groundwater recharge project. He asked the Board to consider putting the interim/final limits in the permit and the compliance schedule in the TSO. He objected to monthly average nitrate+nitrite limits, chronic toxicity limits, and Title 22-based limits.

Vicki Conway, LACSD, went over additional issues, including typos in the change sheet and on pages 10.11 and 10.18. She requested that only effluent violations be included in the compliance history (no bypasses) and that a change be made to the MRP to include authorization for Whittier Narrows (and all other LACSD facilities) to use methods with lower MLs upon approval of the Executive Officer. She then asked for additional time to submit monthly monitoring reports.

Margie Miller, LACSD, asked that several recent research projects that were provided to staff for the facility's Rio Hondo groundwater recharge permit regarding attenuation and groundwater quality be included in the record for this permit. She stated that staff's report that LACSD had not submitted any supporting research regarding Title 22 based limits was not true.

Public Comments

Robyn Stuber, USEPA Region 9, supported the permit, including the inclusion of CTR-based limits, maximum daily limits, mass-based limits, and the ammonia and toxicity requirements.

Shelley Luce, Heal the Bay stated that this permit was an example of how flawed the SIP is. She feels that effluent limits are an essential safeguard for water quality and opposes removing them based on a RPA. She strongly supported the decision to include Title 22 limits and chronic toxicity limits.

Robert William Robinson, asked that the Board not issue a permit until LACSD investigates the possible contamination of groundwater by low level toxins from pharmaceutical waste that could have sub-lethal but chronic effects through recharging practices.



Royall Brown, asked the Board to require LACSD to monitor for medical waste contamination generated by the recharge project that could have adverse health effects.

Board Questions

Board Member Nahai asked what would happen to this permit if the petitions to the Los Coyotes and Long Beach permits by LACSD and BayKeeper were granted by State Board. He asked if there was a re-opener in this permit.

Michael Lauffer, Staff Counsel, replied that State Board action would put this permit into abeyance and that it doesn't need specific re-opener language.

Board Member Nahai then asked about 10.1-10 and 10.1-17 in the change sheet and if the fact that the permit doesn't authorize a change in technology is enough to prove no antidegradation.

Michael Lauffer replied that the permit effectively constrains and precludes changes in treatment technology except to allow an increase, thereby establishing a floor.

Chairperson Diamond asked staff to address the legal basis for chronic toxicity limits. She then asked if the Title 22 limits are consistent with the limits in the groundwater recharge permit.

Michael Lauffer replied that Ms. Stuber from USEPA and staff had adequately addressed the chronic toxicity issue. He added that toxicity monitoring serves as a catchall that indicates problems with the effluent, especially when specific pollutants are excluded because of a RPA. With respect to the Title 22 limits, he said that the Rio Hondo groundwater recharge permit is for an operation that uses a tremendous amount of dilution, while this permit covers discharges to groundwater that aren't necessarily diluted. The permit must protect the groundwater beneficial uses because they are affected by other sources than the spreading grounds.

Board Member Nahai asked if it was possible to put interim limits in the permit but a compliance schedule in the TSO.

Michael Lauffer replied that although this was not possible, staff is working on a limited compliance schedule for the basin plan that would include any facilities with outstanding TSOs and allow for a reopener to allow compliance schedules in their permits.

Board Member Mindlin asked if staff had anything to offer LACSD at this time on the issue of possible third party lawsuits over the TSO.



Michael Lauffer replied that staff did not. The Board members and staff then had a discussion on third party lawsuits.

Board Member Nahai asked if there was no REC-1 designation at all, would the same standards apply because of the groundwater recharge designation.

Deborah Smith, Assistant Executive Officer, replied that the two designations drive different limits.

Board Member Nahai asked staff to respond to LACSD's comments that this permit is inconsistent with the recharge permit. He then asked for staff's response to Vicki Conway's comments.

Blythe Ponek-Bacharowski replied that the discharge is not just to the spreading grounds but to dry unlined creek beds with connections to the aquifer. This permit covers the discharge to groundwater through these creek beds, not through the spreading grounds. Ms Ponek-Bacharowski stated that staff fixed the typos pointed out by Ms. Conway. She said that staff would strike the statement about the bypass from the compliance history section of the staff report.

Chairperson Diamond asked about Ms. Nellor's request that attenuation and dilution studies be included in the record.

Deborah Smith replied that staff didn't mean to say there was no research done on this topic, only that there was no adequate site specific research to warrant the removal of Title 22-based limits.

Board Member Cloke asked staff to address the issue of pharmaceutical waste and to discuss the state of water quality science with respect to this issue.

Blythe Ponek-Bacharowski replied that the Department of Health Services were looking into the issue as part of upcoming recycled water standards.

Nicole Granquist, Attorney for LACSD, spoke some more about the omission of groundwater attenuation and dilution studies from the record for this item. She stated that these reports were in staff's possession for a separate groundwater recharge permit and felt they should not be excluded.

There was a motion to adopt the staff recommendation for Item 10.1 with the change sheet along with the typo corrections suggested by Ms. Conway and adding the word "or" before "level" in 10.1-10 and 10.1-17 as suggested by Board Member Nahai.

MOTION: By Chairperson Diamond, seconded by Board Member Nahai, and approved on a voice vote. No votes in opposition.



There was a motion to adopt Item 10.2 with language proposed by Michael Lauffer, and with language added to 10.2-96 a, b, and c by Chairperson Diamond.

MOTION: By Chairperson Diamond, seconded by Board Member Mindlin, and approved on a voice vote. No votes in opposition.

14. Consideration of Amendment to Cease and Desist Order for Halaco Engineering Company

Dennis Dickerson, Executive Officer, presented background on the CDO issued by the Board in March 2002 and Halaco's compliance with the order. The CDO required Halaco to meet the requirements of Order No. 80-58 and established a set of new requirements. Mr. Dickerson stated that Halaco was in compliance with the following provisions of the CDO: cease discharge, temporary seepage and erosion control workplan, waste sampling workplan, well decommissioning workplan, surface water monitoring workplan, and the engineering and land survey. Mr. Dickerson stated that Halaco had submitted the reconfiguration workplan and groundwater monitoring workplan but that they were incomplete. Mr. Dickerson then reviewed Halaco's request for an extension to the provisions requiring placement of boundary markers and survey corners and their request for amendments to exhibit B and Provision i. He then discussed issues and complications related to Halaco's bankruptcy proceedings.

The Board Members discussed the effect of Halaco's bankruptcy proceedings on this item and if amending the CDO anyway violated bankruptcy laws.

Robert Sams, Staff counsel, stated that staff had enlisted the assistance of the attorney general's office in this matter. Mr. Sams stated that the AG had seen the agenda package for this item and had voiced no objections to having the meeting.

Arthur Fine, Halaco, requested an amendment to Provision i because Halaco is not able to place permanent boundary markers until the County files the record of survey. He added that the extension wouldn't affect Halaco's compliance with any other provision of the CDO. He also gave the Board an update on the issues regarding access to the waste pile.

The Board members and Mr. Fine discussed how restricted access to the waste pile would affect compliance with the CDO. They also discussed how Halaco's bankruptcy would affect compliance with the CDO and whether or not the Board's actions today would violate bankruptcy laws.

There was a motion to continue this item to the next meeting, and put it early on the agenda. The Board members directed staff to consult with the AG office for guidelines on how to deal with bankruptcy issues and to send a letter to the City of Oxnard requesting their cooperation in bringing Halaco into compliance with the CDO.



MOTION: By Chairperson Diamond, seconded by Board Member Cloke, and approved on a voice vote. No votes in opposition.

15. Consideration of a Tentative Resolution supporting the Coastal Commission in developing a Local Coastal Program for the City of Malibu

Tracy Duffy, staff member at the California Coastal Commission, provided some background on the Malibu local coastal program. She stated that the Coastal Commission staff worked with Regional Board staff to ensure that the LCP addressed priority water quality issues and was consistent with Regional Board regulations.

Shelley Luce, Heal the Bay, requested that the Board encourage the Coastal Commission to require the City of Malibu to include additional surface and ground water monitoring in its wastewater management plan.

Board Member Cloke moved to approve the resolution with one additional finding and two additional resolutions. The new finding would be Finding #17 and would recognize the many single family residences and some commercial development located directly on the beach front. The first resolution would follow Resolution No. 2 and would recommend that the Coastal Commission review these unique land use patterns and consider expanding the storm water regulations to include beachfront residential and commercial development and commercial development below the proposed 1,000 square foot threshold. A second resolution would recommend that the Coastal Commission consider requiring the City of Malibu to conduct additional monitoring in its wastewater management plan.

MOTION: By Board Member Cloke, seconded by Chairperson Diamond, and approved on a voice vote. No votes in opposition.

- 8.1 Las Virgenes Municipal Water District, Tapia Reclamation Plant Constructed Wetlands

Blythe Ponek-Bacharowski gave the staff presentation including a description of the discharge and the proposed constructed wetlands, the application rate, discharge limitations, discharge monitoring, groundwater monitoring, site inspection requirements, workplan requirements, and the requirement to have a contingency plan to limit the impacts on Malibu Creek in the case of resurfacing. She then reviewed comments received by the discharger and Heal the Bay. The discharger's comments were resolved with staff but Heal the Bay had unresolved issues concerning possible resurfacing to Malibu creek and the duration of the project.

Dr. Randall Orton, Las Virgenes Municipal Water District, stated that the wetlands can be constructed quickly but they need long term monitoring data, hence the 5-year duration of the project. On the resurfacing issue, he said that the simple remedy to local resurfacing would be to turn the valve down.



Shelley Luce, Heal the Bay, supported the use of treated wetlands but felt the permit lacked substantial proof that flows would not enter Malibu creek. She suggested the use of groundwater in a pilot study before allowing Tapia to discharge wastewater to the wetlands. She also stated that the 5-year duration of the project would allow too much potential discharge to the creek.

Board Questions

Board Member Nahai reviewed a list of changes that he required before he would approve the permit. These included confirmation that the permit did not amend any other permits already in place, a provision requiring immediate ceasing of discharge if resurfacing occurred, and a more fleshed out contingency plan, among other changes.

Ms. Ponek Bacharowski replied that the permit discussed other permits and their discharge prohibitions in finding #2. She stated that there was nothing in the permit that required the discharger to turn off flow but that they could adjust the flow and standby if resurfacing occurred. She added that staff could add a provision prohibiting discharge if the flow resurfaced at the creek.

Dennis Dickerson stated that staff could add language saying that upon discovery of any discharge to the creek, Tapia must immediately cease discharge to the wetlands.

Board members and staff discussed the requirements still needed before the Board would approve the permit. There was a motion to continue the item to the soonest possible meeting and to schedule a conference call over the next 2-3 weeks to discuss the unresolved issues. The Board also ordered that staff prepare a letter to Las Virgenes supporting and applauding the use of constructed wetlands.

MOTION: By Board Member Nahai, seconded by Chairperson Diamond, and approved on a voice vote. No votes in opposition.

Adjournment of Current Meeting

The meeting adjourned at 5:45 pm. The next regular meeting is scheduled for September 26, 2002, at City of Calabasas Council Chambers, 26135 Mureau Road, Calabasas at 9:00 a.m.

Minutes adopted at the _____ Regular Board meeting submitted/amended.

Written and submitted by: _____.

